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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1978

No. 78-63

RICKY MANN MOON,
Petitioner,

v.

COMMONWEALTH OF VIRGINIA,
Respondent.

PETITIONER'S SUPPLEMENTAL BRIEF

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Pursuant to Rule 24(5) of the Rules of this Court, petitioner Ricky Mann Moon submits this supplemental brief to bring to the Court's attention the fact that it has recently granted a Petition for a Writ of Certiorari in a case involving a question identical to the one presented by petitioner here.

The second of the questions presented to this Court in Moon's Petition for a Writ of Certiorari is:

> Whether a warrantless search of the car Moon was driving and the additional warrantless search of a

bag in the car found later to contain marijuana was permissible under the Fourth Amendment, where the search was not incident to an arrest and where the government introduced no evidence to suggest that exigent circumstances required a warrantless search.

On October 10, 1978, this Court granted a Petition for a Writ of Certiorari in *Arkansas v. Sanders*, No. 77-1497, 47 U.S.L.W. 3239, 3246. The question presented by that case is whether the existence of probable cause justifies the warrantless search of a suitcase found in the trunk of a car. The resolution of each case depends on the degree to which probable cause alone permits a search of closed containers police officers find in automobiles, where it would be possible to immobilize the containers and obtain a warrant to search them. The issues in the two cases are so closely linked that a decision in one case is almost certain to dispose of the other. Petitioner therefore suggests that, in light of the substantial identity of the issues presented in *Arkansas v. Sanders* and this case, it would be appropriate for the Court to grant Moon's Petition

A grant of certiorari is preferable to a deferral of this petition until a decision in *Arkansas v. Sanders.* It would give the Court an opportunity to resolve the important

question before it in an additional factual context and thus give greater clarity to an area of the law which has been uncertain and difficult to apply.

Respectfully submitted,

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